



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6870-99

27 January 2000

MAJ [REDACTED] USMC

Dear Major [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) in your case, dated 2 November 1999, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 19 November 1999, copies of which are attached. They also considered your rebuttal letters dated 25 November and 30 December 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They did not find the contested reviewing officer's comments, which reflect a less favorable peer ranking than that shown in the reporting senior's appraisal, to be "adverse." Since they found no defect in your performance record, they had no basis to remove your failures by the Fiscal Year 1999 through 2001 Lieutenant Colonel Selection Boards, or to recommend you for a special selection board. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and

material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures

6870-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
NOV 2 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] USMC

Ref: (a) Major [REDACTED] DD Form 149 of 17 Sep 99
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 27 October 1999 to consider Major [REDACTED] petition contained in reference (a). Removal of the Reviewing Officer's comments appended to the fitness report for the period 960614 to 970613 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner's argument is that the Reviewing Officer's evaluation **"may have been tainted"** by extenuating and mitigating circumstances surrounding a personal situation between the petitioner and a fellow Marine officer. Several items of documentation have been furnished in support of the petitioner's appeal.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. At the outset, the Board emphasizes that Major General [REDACTED] did not disagree with the Reporting Senior's assessment of the petitioner's exemplary efforts and results. He totally agreed and added his own supporting comments, indicating that the petitioner's actions under pressure, attention to detail, and perseverance were superb! Major General [REDACTED] disagreement with the Reporting Senior was not with the petitioner's performance, but rather his overall general value placement amongst three "exceptionally talented majors." That was the Reviewing Officer's judgmental evaluation from a more objective vantage point as the President of the Marine Corps University and a more pervasive understanding as to his individual officers' influence on the University's overall mission. This was Major General [REDACTED] prerogative and is in no way contrary to the spirit and intent of reference (b).

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] USMC

b. In the last paragraph of her letter at enclosure (4) to reference (a), Lieutenant Colonel [REDACTED] indicates that the petitioner's ". . . experience in the episode at Quantico should not be held against him." There is no evidence whatsoever in reference (a) that anyone in the petitioner's fitness reporting chain, or chain of command, harbored any ill-will toward him because of the betrayal he suffered. The inference by both Lieutenant Colonel [REDACTED] and the petitioner that Major General [REDACTED] review **"may have been tainted"** has no evidential corroboration and is viewed by this Board as nothing more than unsanctioned speculation. Only Major General [REDACTED] can say for sure exactly why he rated the petitioner as "3 of 3."

4. The Board's opinion, based on deliberation and secret ballot vote, is that the Reviewing Officer's comments appended to Major [REDACTED] fitness report for the period 960614 to 970613 (CD) should remain a part of his official military record.

5. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6870-99

IN REPLY REFER TO:

1600
MMAA-4
19 Nov 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR MAJOR [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Major [REDACTED] USMC
of 17 Nov 99

1. Recommend disapproval of [REDACTED] request for removal of his failures of selection and a Special Selection Board.
2. Per the reference, we reviewed [REDACTED]'s record and petition. [REDACTED] failed selection on the FY99 and FY00 USMC Lieutenant Colonel Selection Boards. Subsequently, he unsuccessfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Reviewing Officer comments on the Change of Duties fitness report of 960614 to 970613. [REDACTED] requests removal of his failures of selection and a Special Selection Board.
3. In our opinion, [REDACTED]'s record as it appeared before the Board was complete and accurate, and provided a fair assessment of his performance. The unfavorable PERB action does nothing to change the competitiveness of the record. Therefore, we recommend disapproval of [REDACTED]'s request for removal of his failures of selection and a Special Selection Board.
4. Point of contact is Lieutenant Colonel [REDACTED] 1-9201.

[REDACTED]
[REDACTED]
[REDACTED]
Lieutenant Colonel, U.S. Marine Corps
Head, Officer Counseling and
Evaluation Section
Officer Assignments Branch
Personnel Management Division